

**REMARKS****A. Status of the Claims and Explanation of the Amendments**

Currently, claims 1-49 are pending. Of these claims, claims 4-30, 32-36, and 44-47 are withdrawn from consideration.

Claims 1-3, 31, 37-43, 48, and 49 have been rejected. Claims 48 and 49 have been rejected under 35 U.S.C. §112, ¶2, for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 31 has been rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Application No. 2002/0162605 to Horton, Jr. ("Horton"). Claims 1-3, 37-43, 48 and 49 have been rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Application No. 2004/0072124 to Kaufman et al. ("Kaufman").

In this response, Applicant has amended the claims to further clarify the invention. Claim 1 has been amended to recite, *inter alia*, "an iron-based alloy having a metalloid and a cobalt-based alloy having a metalloid". A similar amendment has been made to claims 37 and 41. Claim 31 has been amended to recite, *inter alia*, "[a] stent...comprising a substantially tubular member...that comprises an amorphous metal alloy, wherein said amorphous metal alloy is selected from the group consisting of a copper-based alloy, an iron-based alloy, and a cobalt-based alloy."

Claim 48 has been amended to recite, *inter alia*, "wherein said amorphous metal alloy comprises an element selected from the group consisting of silicon, boron, and phosphorus." Support for these amendments is found generally throughout the specification (e.g., see page 5, lines 20-23]. Claim 48 has also been amended to correct a minor typographical error. Claim 49 has been rewritten and now recites, *inter alia*, "wherein said amorphous metal alloy is an iron

based alloy, and wherein said iron-based alloy contains Fe, Cr, B, and P.” Support for these amendments are found in original claim 1, and in paragraph 20 of the specification. No new matter has been added by these amendments.

B. Response to Rejections under 35 U.S.C. §112, ¶2.

The Office Action of December 12, 2005 states that “because claim 1, on which claim 48 depends, only requires the copper-based alloy to have a metalloid, it is unclear how an iron-based or cobalt-based metal alloy would be further limited by claim 48” [Office Action, page 2, ¶3]. In response, applicant respectfully notes that the claim now recites, *inter alia*, “an iron-based alloy having a metalloid and a cobalt-based alloy having a metalloid”. Claim 1 is broader than claim 48, which is directed to an amorphous metal alloy having specific metalloids (*viz.*, silicon, boron, and phosphorus). Thus, claim 48 is properly narrower than claim 1, and applicant respectfully requests reconsideration and withdrawal of this rejection under 35 U.S.C. §112, ¶2.

With respect to claim 49, applicant has amended the claim to recite, *inter alia*, “wherein said amorphous metal alloy is an iron-based alloy, and wherein said iron-based alloy contains Fe, Cr, B, and P”. Thus, claim 49 is not directed to a copper- or cobalt-based alloy, and claim 49 is commensurate with claim 1. Accordingly, applicant respectfully requests reconsideration and withdrawal of the rejection of claim 49 under 35 U.S.C. 112, ¶2.

C. Response to Rejections under 35 U.S.C. §102(e)

Applicant respectfully traverses the rejection of claim 31 as allegedly being unpatentable over Horton, as well as the rejection of claims 1-3, 37-43, 48, and 49 as allegedly

being anticipated by Kaufman. Briefly, Horton and Kaufman fail to teach, disclose or suggest all of the claim elements of applicant's claims. Accordingly, the rejections under 35 U.S.C. §102 should be withdrawn. MPEP §2131.

With respect to the rejection of claim 31, applicant notes Horton is directed to bulk metallic glass medical instruments. However, Horton explicitly states that copper is unsuitable for use as implants, because it is too soft [Horton, ¶[0037], lines 8-11]. Furthermore, Horton explicitly teaches that ferromagnetic metallic glasses are not suitable for MRI imaging, and are specifically excluded from the scope of the present invention [Horton, ¶[0050]]. Thus, Applicant respectfully submits that Horton also specifically excludes Applicant's iron- and cobalt-based amorphous metal alloys, because both iron and cobalt are ferromagnetic.

Because Horton does not teach "a stent" having copper-, iron- or cobalt-based amorphous alloys as recited in claim 31, applicant respectfully requests reconsideration and withdrawal of the rejection of claim 31 under 35 U.S.C. §102.

With respect to the rejection of claims 1-3, 37-43, 48, and 49 over Kaufman, applicant respectfully notes that Kaufman fails to teach, disclose, or suggest an "amorphous metal alloy is selected from the group consisting of a copper-based alloy having a metalloid, an iron-based alloy having a metalloid, and a cobalt-based alloy having a metalloid" as recited in independent claims 1, 37, and 41. At best, Kaufman merely discloses an alloy having the general formula  $X_aM_bAl_c$ , where X is Zr or Hf, M is at least one element selected from the group consisting of Mn, Fe, Co, Ni, Ti, and Cu, where a, b, and c are (in atomic percentages)  $25 < a < 85$ ,  $5 < b < 70$ , and  $0 < c < 35$ . None of these elements is a metalloid.

Because Kaufman fails to teach all of the claim elements of claims 1-3, 37-43, 48, and 49, applicant respectfully requests reconsideration and withdrawal of rejection of these claims under 35 U.S.C. §102(e) as being anticipated by Kaufman.

**CONCLUSION**

Based on the foregoing amendments and remarks, applicants believe that this application is in condition for allowance and respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

**AUTHORIZATION**

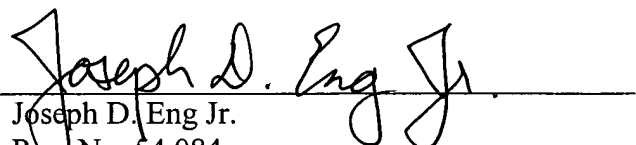
The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 4396-4001. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 4396-4001. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: March 13, 2006

By:

  
Joseph D. Eng Jr.  
Reg. No. 54,084

**Correspondence Address:**

MORGAN & FINNEGAN, L.L.P.  
3 World Financial Center  
New York, NY 10281-2101  
(212) 415-8700 Telephone  
(212) 415-8701 Facsimile  
(212) 415-8705 Direct